



ORDINARY MINUTES

DATE: Tuesday, 8 November 2011

TIME: 2:45pm

VENUE: Council Chambers, Lowood
Road, Mount Barker WA 6324

Rob Stewart
CHIEF EXECUTIVE OFFICER

MEMBERSHIP – Quorum (5)

Membership:

Cr K Clements – Shire President
Cr M Skinner – Deputy Shire President
Cr B Bell
Cr A Budrikis
Cr S Etherington JP
Cr L Handasyde
Cr G Messmer
Cr J Moir
Cr C Pavlovich

Information and recommendations are included in the reports to assist the Council in the decision making process and may not constitute the Council's decision until considered by the Council.

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:46pm The Presiding Member declared the meeting open.

2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Members Present:

Cr K Clements	Shire President
Cr M Skinner	Deputy Shire President
Cr B Bell	Councillor (left Chamber at 3:05pm, returned 3:12pm)
Cr A Budrikis	Councillor
Cr S Etherington	Councillor
Cr L Handasyde	Councillor
Cr G Messmer	Councillor
Cr J Moir	Councillor
Cr C Pavlovich	Councillor (left Chamber 3:05pm, returned 3:12pm) (left Chamber at 3:20pm, returned 3:22pm)

In Attendance:

Mr Rob Stewart	Chief Executive Officer
Mr John Fathers	Deputy Chief Executive Officer
Ms Nicole Selesnew	Manager Community Services
Mr Peter Duncan	Manager Development Services
Mr Dominic Le Cerf	Manager Works and Services
Mr Vincent Jenkins	Planning Officer
Mrs Linda Sounness	Executive Secretary

There were four members of the public present

Previously Approved Leave of Absence:

Nil

Emergency Evacuation Procedures/Disclaimer:

Working to Occupational Safety and Health Best Practices, Mr Rob Stewart - Chief Executive Officer, read aloud the emergency evacuation procedures for Councillors, staff and members of the public present in the Council Chambers.

Mr Stewart then read aloud the following disclaimer:

'No responsibility whatsoever is implied or accepted by the Shire of Plantagenet for any act, omission or statement or intimation occurring during Council / Committee meetings or during formal / informal conversations with staff.

The Shire of Plantagenet disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, or statement of intimation occurring during Council / Committee meetings or discussions. Any person or legal entity who acts or

fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation or approval made by a member or officer of the Shire of Plantagenet during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Plantagenet. The Shire of Plantagenet warns that anyone who has an application with the Shire of Plantagenet must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Plantagenet in respect of the application.'

3 PUBLIC QUESTION TIME

3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

3.2 PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995

Nil

4 PETITIONS / DEPUTATIONS / PRESENTATIONS

4.1 MR JO PLOWRIGHT – DRAFT LOCAL PLANNING STRATEGY - ITEM 10.1.1

Speaking in favour of the Planning Vision, Mr Plowright congratulated the Shire regarding the Planning Vision and for the support given to him when dealing with the Department of Planning. Mr Plowright commented that he had strong concerns for Narrikup and its future and hoped that the Department will open some blocks in the future.

4.2 MR CHARLIE HICK – DRAFT LOCAL PLANNING STRATEGY – ITEM 10.1.1

Speaking in favour of the Planning Vision Mr Hick raised the following key points:

- Local Planning Scheme has been well researched and captured local ideas as instructed to do so in WAPC – Local Planning Manual.
- As instructed in the Lower Great Southern Strategy it has put areas and lot sizes into the Plan.
- Lower Great Southern Strategy is well respected document and used in Commonwealth Government Plans and Strategies.
- 89 percent of all subdivisions rejected the Draft Local Planning Strategy July 2011.
- Most importantly 98.5% of subdivisions from residents/ratepayers rejected the Draft Local Planning Strategy July 2011.

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr B Bell:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Owner of property in the Shire of Plantagenet – in Item 10.1.1.

Cr A Budrikis:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Owner of property in the Shire of Plantagenet – in Item 10.1.1.

Cr K Clements:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Owner of property in the Shire of Plantagenet – in Item 10.1.1.

Cr S Etherington:

Closely Associated Person (section 5.62 LGA) Interest – Partner owns property within the Shire of Plantagenet – in Item 10.1.1.

Cr L Handasyde:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Owner of property in the Shire of Plantagenet – in Item 10.1.1.

Cr G Messmer:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Owner of property in the Shire of Plantagenet – in Item 10.1.1.

Cr J Moir:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Owner of property in the Shire of Plantagenet – in Item 10.1.1.

Cr C Pavlovich:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Property within the Town Planning Scheme – in Item 10.1.1.

Disclosed a Closely Associated Person (Section 5.62 LGA) Interest – Represent Football Club in the proposed Sounness Park Development - in Item 10.5.3.

Cr M Skinner:

Disclosed a Proximity (Section 5.60(B) LGA) Interest – Owner of property in the Shire of Plantagenet – in Item 10.1.1.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

Nil

7 CONFIRMATION OF MINUTES

Moved Cr L Handasyde, seconded Cr S Etherington:

That the Minutes of the Special Meeting of the Shire of Plantagenet, held on 18 October 2011 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 292/11

Moved Cr M Skinner, seconded Cr J Moir:

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 18 October 2011 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 293/11

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Shire President distributed notes separately.

The Shire President congratulated and presented Cody Woolhouse with a Certificate in recognition of his achievement for being awarded the Fire and Emergency Services Authority of Western Australia Youth Achievement Award the recent 2011 Firefighting Awards.

9 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr M Skinner

- 8 November 2011 - Attended a Great Southern Regional Cattle Saleyards Advisory Committee Meeting

Cr S Etherington

- 3 November 2011 - Attended a Mount Barker Community College Council Meeting
- 3 November 2011 - Attended a Local Emergency Management Committee

Cr B Bell

- 2 November 2011 – Attended a Bush Fire Advisory Committee Meeting

- 8 November 2011 – Attended a Great Southern Regional Cattle Saleyards Advisory Committee Meeting

Cr J Moir

- 4 November 2011 - Represented the Shire of Plantagenet at the annual Hollow Log Golf Local Government Tournament.

Cr A Budrikis

- 4 November 2011 – Represented the Shire of Plantagenet at the annual Hollow Log Golf Local Government Tournament.

Cr G Messmer

- 26 October 2011 – Attended New Councillor Training held at the Shire of Cranbrook
- 3 November 2011 – Attended a Roadwise Committee Meeting

Cr C Pavlovich

- 26 October 2011 – Attended New Councillor Training held at the Shire of Cranbrook
- 8 November 2011 – Attended a Great Southern Regional Cattle Saleyards Advisory Committee Meeting
- Request to attend the Southern Link VROC meetings as an observer.

Cr L Handasyde

- 22 October 2011 – Attended a Middle Ward Fire brigade pre season discussion with community members.
- 29 October 2011 – Attended a Forest Hill Hall Centenary Celebrations.
- 2 November 2011 – Attended a Bush Fire Advisory Committee Meeting
- 3 November 2011 – Attended a Roadwise Committee Meeting
- 4 November 2011 – Attended a TIRES Meeting with Ian Duncan of WALGA
- 7 November 2011 – Attended a Great Southern Regional Road Group Meeting.
- 8 November 2011 – Attended a Great Southern Regional Cattle Saleyards Advisory Committee Meeting.

10 REPORTS OF COMMITTEES AND OFFICERS

10.1 DEVELOPMENT SERVICES REPORTS

10.1.1 DRAFT LOCAL PLANNING STRATEGY JULY 2011 - REVISED TO SUIT THE WESTERN AUSTRALIAN PLANNING COMMISSION - SUBMISSIONS RECEIVED

A Proximity (Section 5.60(B) LGA Interest was declared by Cr B Bell. Nature and extent of interest – Owner of property in the Shire.

A Proximity (Section 5.60(B) LGA Interest was declared by Cr A Budrikis. Nature and extent of interest – Owner of property in the Shire.

A Proximity (Section 5.60(B) LGA Interest was declared by Cr K Clements. Nature and extent of interest – Owner of property in the Shire.

A Closely Association Person (Section 5.62 LGA) Interest was disclosed by Cr Etherington. Nature and extent of interest - Partner owns property in the Plantagenet Shire.

A Proximity (Section 5.60(B) LGA Interest was declared by Cr L Handasyde. Nature and extent of interest – Owner of property in the Shire.

A Proximity (Section 5.60(B) LGA Interest was declared by Cr G Messmer. Nature and extent of interest – Owner of property in the Shire.

A Proximity (Section 5.60(B) LGA Interest was declared by Cr J Moir. Nature and extent of interest – Owner of property in the Shire.

A Proximity (Section 5.60(B) LGA Interest was declared by Cr C Pavlovich. Nature and extent of interest – Property within the Town Planning Scheme.

A Proximity (Section 5.60(B) LGA Interest was declared by Cr M. Skinner. Nature and extent of interest – Owner of property in the Shire.

Authority to participate pursuant to Section 5.69(3)(a) and (b) of the Local Government Act 1995

Approval has been received from the Department of Local Government (formerly the Department of Local Government and Regional Development) via a letter dated 27 October 2011 giving permission for Councillors K Clements, M Skinner, J Moir, A Budrikis, G Messmer, L Handasyde and S Etherington to participate in matters relating to a draft Local Planning Strategy for the Council meeting of 8 November 2011.

Mr R Stewart read aloud the letter, a copy of which is attached to these minutes.

3:05pm Cr B Bell and Cr C Pavlovich withdrew from the meeting.

File No: N19836
Attachments: [Summary of Submissions](#)
[Schedule of Modifications](#)
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 8 November 2011

PURPOSE

The purpose of this report is to consider submissions received on the revised draft Local Planning Strategy (LPS) dated July 2011.

BACKGROUND

The Council, when it first considered the Draft LPS at its meeting held on 10 June 2008, resolved at Resolution 98/08 as follows:

'That the Council adopt the Draft Plantagenet Local Planning Strategy and refer it to the Western Australian Planning Commission for its approval to advertise for public comment for a period of sixty (60) days.'

The draft LPS was delivered to the Department for Planning and Infrastructure (DPI) (now the Department of Planning (DOP)) Albany office on 11 June 2008 for it to report to the Western Australian Planning Commission (WAPC).

The draft LPS was prepared to satisfy Regulation 12A of the Town Planning Regulations made under the Planning and Development Act 2005. It was prepared using the suggested format for such a document prepared by the WAPC as part of its Planning Schemes Manual which satisfies the guidelines for the Model Scheme Text. That Manual was replaced by a new 'Local Planning Manual' in 2010.

The draft LPS preparation process involved community consultation with a series of public workshops involving stakeholders and interested community members in October and November 2005. Six workshops were held in Mount Barker, the Porongurup Hall, the Narrikup Hall, the Kendenup Country Club and at the Rocky Gully CWA rooms.

In an attempt to determine future proposals from various government agencies with infrastructure or facilities within the Shire, the Council wrote in August 2007 to 19 agencies seeking advice on future directions. Responses were received from several of these agencies.

Through the preparation phase of the draft LPS a series of workshops was held with Councillors to discuss various aspects of the draft components of the document. Those workshops are listed as follows:

1. 13 November 2007 - Introduction, State, Regional and Local Context, Profile and Issues, Strategic Plan, Risk, Monitoring and Reviews.

2. 27 November 2007 - Narrikup and Porongurup.
3. 11 December 2007 - Kendenup and Rocky Gully.
4. 12 February 2008 - Mount Barker, Urban Settlement, Industrial Strategies, Climate Change.
5. 27 May 2008 - Rural District.

Officers from the Albany office of the DOP attended all of the workshops with the exception of that held on 11 December 2007. The DOP officers were provided with all of the papers for the various components in advance of each workshop but feedback was never provided.

As in 11 months a report on the draft LPS had not been placed before the WAPC, the Council adopted the draft LPS as a draft Town Planning Scheme (TPS) Policy. The Council, when it considered draft TPS Policy No. 18 (Draft Local Planning Strategy) at its meeting held on 12 May 2009, it resolved at Resolution No. 120/09:

'That:

1. *Draft Town Planning Scheme Policy No. 18 - Draft Local Planning Strategy be advertised in accordance with clause 7.6.2(a) of Town Planning Scheme No. 3 for a period of 60 days.*
2. *At the conclusion of the advertising period a further report be prepared for consideration of the Council no later than its meeting to be held on 8 September 2009.'*

As Councillors were aware, the draft LPS differed in some instances from WAPC policy, however these differences were not considered to be major and reflected local circumstances. As part of the advertising process, information was included with the document that briefly explained the process to date and also the differences from the WAPC policy.

The DOP (Albany) was provided with a copy of the updated draft LPS in the form of TPS Policy No. 18 together with a list of all of the changes/updates to the document.

On 7 July 2009 the Statutory Planning Committee of the WAPC considered a report prepared by the DOP (Albany) on the superseded June 2008 version and not the May 2009 edition of the draft LPS. The (then) Shire President and the Manager Development Services (MDS) attended at the beginning of that meeting and made a presentation to the Committee. Each member was provided with a copy of the draft TPS Policy No. 18. The DOP report and attachments were not made available to the Shire President and the MDS.

The draft TPS Policy was advertised for a period of 60 days to enable the public to provide comment. At the end of the advertising a total of 22 submissions had been received.

The Council considered the submissions at its meeting held on 13 October 2009 where at Resolution 276/09 it was resolved:

'That in respect to the draft Town Planning Scheme Policy No. 18 (Local Planning Strategy):

1. *The submissions received be noted and the final draft Town Planning Scheme Policy No. 18 (Local Planning Strategy) be adopted subject to the modifications contained in the Schedule of Modifications being carried out.*
2. *The draft Town Planning Scheme Policy No. 18, the Summary of Submissions and the Schedule of Modifications be referred to the Western Australian Planning Commission for its approval.*
3. *Once approved by the Western Australian Planning Commission the draft Town Planning Scheme Policy No. 18 be modified accordingly and then advertised publicly as being finalised.'*

The WAPC met on 15 December 2009 and its decision was conveyed in a letter dated 17 December 2009.

The Council considered the WAPC decision and at its meeting held on 9 February 2010 resolved:

'That in respect to the Shire of Plantagenet Draft Local Planning Strategy:

1. *The Western Australian Planning Commission (WAPC) be advised the Council will carry out the WAPC required modifications and when resubmitted, an advertising period of 21 days will be requested.*
2. *The modified Draft Local Planning Strategy be placed before the Council for consideration no later than 9 November 2010.'*

Since that time staff have met with officers of the DOP and have altered the draft LPS to be in a form that the DOP is happy with. In essence the long term strategic growth initiatives have been removed from the document. A copy of the revised draft LPS dated December 2010 was provided to each Councillor as a separate attachment with the 14 December 2010 agenda.

The WAPC considered the cut down draft LPS in February 2011. In a letter dated 22 February 2011, the Council was advised the WAPC agreed to grant consent to advertise the draft LPS subject to two more modifications.

The Council then considered a further revised (reduced growth) LPS at its meeting held on 26 July 2011 and resolved:

'That:

1. *The revised Shire of Plantagenet Draft Local Planning Strategy – July 2011 be advertised for a period of 42 days.*
2. *At the conclusion of the advertising period a further report be prepared for consideration of the Council no later than its meeting to be held on 8 November 2011.'*

Councillors were provided with a copy of the July 2011 LPS with the 26 July 2011 agenda.

The July 2011 draft LPS was advertised for 42 days and 80 submissions were received (see Summary of Submissions).

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Town Planning Regulations (Regulations) - Regulation 12A allows a Council to prepare a Local Planning Strategy and requires such a Strategy to be forwarded to the WAPC. A Local Planning Strategy is to:

- '(a) set out the long-term planning directions for the local government;*
- (b) apply State and regional planning policies; and*
- (c) provide the rationale for the zones and other provisions of the Scheme.'*

Regulation 12B requires that when the WAPC is satisfied with the strategy, it is to be advertised for public comment for a minimum period of 21 days. Following the advertising, Regulation 12B(3) states:

- '(3) After the expiry of the period within which submissions may be made and advice given, the local government shall—*
 - (a) review the Local Planning Strategy in the light of any submission made and advice received;*
 - (b) adopt the Local Planning Strategy with such modifications as it thinks fit to give effect to the submissions and advice; and*
 - (c) submit a copy of the Local Planning Strategy to the Commission for its endorsement.'*

EXTERNAL CONSULTATION

A series of public workshops on the draft LPS was held in October and November 2005. A series of five workshops was held with Councillors in late 2007 and early 2008 to discuss the components of the LPS.

The draft LPS, once adopted as a draft by the Council and approved as a draft by the WAPC, was to be advertised for public comment for a period of 60 days. With the lack of consideration by the DOP, the Council embarked upon the course of action for a TPS Policy.

The draft TPS Policy 18 (Local Planning Strategy) was advertised for 60 days and the Council considered the submissions on 13 October 2009.

The WAPC supported the revised draft LPS of December 2010 subject to two more modifications the Council was required to advertise the document for public comment. As this version of the draft LPS is markedly different from the Council's adopted Planning Vision (TPS Policy 18 of March 2010) an appropriate advertising period was considered to be 42 days.

The 42 day advertising was carried out and 80 submissions were received. A Summary of Submissions is attached to this report. Of the 80 submissions received, 12 are from Government agencies and one adjoining Council and 67 were from the general public. Several of the public submissions are similar, but many have subtle differences but their opinions are clear that they do not support the DOP/WAPC version of the draft LPS of July 2011.

This total of 80 submissions, the majority of which are opposed, is a large response compared to the 22 lodged on the Planning Vision (TPS Policy No. 18) which in contrast were in support. To gain this level of submissions is an indication of community concern at the lack of direction provided by the July 2011 draft LPS. There were 67 public submissions strongly opposed and one in support of the advertised July 2011 draft LPS. Of the 12 government agency submissions, four of those were not supportive of the draft bringing the total in opposition to 71.

FINANCIAL IMPLICATIONS

The cost of advertising was met from the Town Planning advertising budget.

The draft document was prepared in-house. The mapping for the draft LPS has been updated by the DOP in Perth at no cost to the Council.

Further work required on the LPS will be prepared in-house.

POLICY IMPLICATIONS

The Council adopted its Planning Vision (TPS Policy No. 18) on 9 March 2010 and that document will remain as the Council's long term strategic planning document. However, as the Vision has not been supported by the DOP/WAPC there will be instances where the DOP/WAPC will not support Council initiatives.

A recent instance in the case of a subdivision refusal south of Narrikup, the State Administrative Tribunal approved the subdivision based on the relevant content of the Planning Vision as a proper planning policy document for this Shire as opposed to the broad statewide WAPC rural policy. The revised draft LPS of December 2010 only plans for growth for a very short period of five years. It is clear from the public submissions that such a short term document is not favoured.

STRATEGIC IMPLICATIONS

Shire of Plantagenet Strategic Plan 2003, Key Results Area 4 indicates that the Council will:

'Develop and Review Town Planning Policies'.

The Strategic Plan 2003 Key Results Area 4 also indicates that the Council will:

'Facilitate the development of a Local Planning Strategy for the Shire that embraces the aims and focus of the Strategic Plan.'

'Review the existing draft Rural and Townsite Planning Strategies.'

'Ensure the outcomes of the Customer Needs Survey and relevant community workshops are incorporated into the Local Planning Strategy.'

OFFICER COMMENT

In the current economic climate, a LPS should be the vehicle for providing the stimulus for potential for growth and pre-planning to ensure there is the ability for the economy to grow and foster future development in a planned and coordinated manner. It should also provide the vehicle for Amendments to TPS3 to follow in a

planned and coordinated manner in accordance with the Council's and obviously the community's wishes.

A LPS is a critical document in the long term planning of the whole Shire and should look at all aspects to guide growth and development well into the future.

The purpose and role of a LPS is to review current planning strategies, to set long term planning directions for the Council, apply regional and state planning policies and strategies and to provide a rationale for various town planning scheme provisions and zones. The time frame for the LPS was intended to be for the next 10 to 20 years and beyond. This revised draft LPS has had the long term strategic land use initiatives removed and as such is limited to a five year planning horizon.

The Director General of the DOP in January 2010 agreed the Council could adopt its own long term planning vision for the Shire area. This was on the understanding that some parts of that vision had not received the approval of the WAPC and this should be noted where relevant in the planning vision. That Planning Vision (Town Planning Scheme Policy No. 18) was adopted by the Council on 9 March 2010.

The revised draft LPS dated December 2010 was prepared to suit the requirements of the DOP. It does not reflect the focus and purpose of the WAPC 'Local Planning Manual' which includes the following statements:

'...the local planning strategy providing the overarching framework. The strategy will enable schemes to more clearly express the strategic vision, policies and proposals of the local government. It will also provide a means to apply state and regional policies at the local level.'

'...the local planning strategy and achieving the local government's aims and objectives with respect to the development of its local area.'

'...each local government is able to adopt the planning policies, provisions and approach that best suit its local needs and circumstances.'

'Each local government should develop a strategy that best suits its area and local circumstances.'

'The strategy sets out the local government's objectives for future planning and development and includes a broad framework by which to pursue those objectives. The strategy will need to address the social, environmental, resource management and economic factors that affect, and are in turn affected by, land use and development.'

The future growth areas in this revised draft LPS have been restricted to areas identified in two, 14 year old 1997 strategies. The planning for the rural areas at Appendix 6 does not address land use or potential land use conflicts as it only makes comment about subdivision of rural land being in accordance with WAPC policy.

Modification 1 of the WAPC letter of 22 February 2011 involved changing the wording at 8.1.3 in Appendix 1 (Mount Barker) in respect to an area identified for Rural Residential in 1997. The land is Lot 500 north of Porongurup Road west of

Bevan Road and through to Duck Road. The draft LPS states the higher parts of the land are heavily vegetated and would not be suitable for development and that the lower parts are low lying. The WAPC modification 1 included wording that rezoning, subdivision and/or development for rural residential or rural smallholding will not be supported by the Council.

In the earlier discussions with the DOP, the matter of one lot (5102) to the north of Narrikup being identified as potential rural residential was of concern to the DOP. This concern related to its potential as priority agriculture and traffic conflict caused by the southern bypass. The DOP recommended to the WAPC that Lot 5102 be deleted as a future rural residential lot hence leaving no land for the growth of Narrikup into the future other than the LandCorp residential land. The WAPC required the Narrikup Appendix 3 be amended to delete the paragraphs that justify the inclusion of Lot 5102 and the deletion of Lot 5102 from the map.

In July 2011 the Council had no option than to agree to the two modifications required by the WAPC. The Council felt that the public comment on this document would be important to gauge the level of support. Rather than a 21 day advertising period which formed part of the Council's resolution on 9 February 2010, a 42 day advertising period was considered by the Council to be more appropriate for the public to consider the ramifications of this revised LPS.

It is noted that the WAPC recently agreed to a Review of the Jerramungup Shire LPS being advertised for comment. The submission period on that Review closed on 30 September 2011. That Review included the provision of Rural Residential land south of Jerramungup townsite and its recreation area, which is very similar to this Council's proposal for Rural Residential at Narrikup which was required to be deleted. Another observation with the Jerramungup LPS Review is that its long term planning is for up to 30 years. It also includes a strip of land west of Bremer Bay for a range of long term Residential, Rural Residential, Farmlets and Industrial. That strip of land extends over 7km from the existing settlement of Bremer Bay.

Plantagenet's Planning Vision includes a long term area of Residential which is only 800m north of the developed parts of Mount Barker but this was deleted from the draft LPS by the DOP/WAPC. Plantagenet's Planning Vision also includes two areas of long term Rural Residential located 2.5km east of Mount Barker and 1km south of Mount Barker, both of which were deleted from the draft LPS by the DOP/WAPC.

In respect to the submissions received on the Shire of Plantagenet July 2011 draft LPS it is clear there is a lack of community support. Of the 12 Government agencies and adjoining Council submissions received there are four that raised concerns about the length of time for the document and/or the quality and content of the document which has been altered to suit the DOP/WAPC.

There were 80 submissions received in total and of those 67 were from the broader community. There is only one supportive submission for this version of the draft LPS from the people in the community who provided comment.

The Council's Planning Vision (TPS Policy No. 18) which was adopted in March 2010 generated 22 submissions of which 15 were from State agencies and local Councils and seven from the broader community. There was broad support for that

document in contrast to the lack of support that has been received on this current July 2011 draft LPS.

From the lack of community support and the concerns raised by some government agencies, it is considered that the most appropriate course of action is not to proceed further with the July 2011 draft LPS. The Regulations, at 12B(3) provide the Council with only one option once it considers the submissions. That option is to adopt the LPS with such modifications as it thinks fit to give effect to the submissions and advice. The Regulations are silent on what the Council can do if there is no support from the community and if the Council chooses not to proceed with the LPS.

The options the Council can consider are to:

- (1) resolve to not proceed with the July 2011 draft LPS due to the lack of community support. This will then require the DOP/WAPC to make a decision on that form of resolution;
- (2) resolve at (1) above and add that the Council requests that its TPS Policy No. 18 (Planning Vision) be accepted as the LPS once reference to it being a TPS Policy is deleted along with other statements about particular aspects not being supported by the WAPC at that time. The WAPC advised previously it could not consider a TPS Policy as a LPS on 'legal advice' (which has not been provided);
- (3) resolve to adopt the July 2011 draft LPS with modifications which delete pages 1 to 28 and Appendices 1 to 6 and insert the content of the Planning Vision with wording changes to delete reference to TPS Policy No. 18 and reference to WAPC is yet to support various particular provisions;
- (4) adjourn consideration of the item; or
- (5) moves to the next item on the agenda.

With the last two options (4) and (5) above, the Council would then advise the DOP/WAPC of the resolution. It is unknown what the DOP/WAPC response would be. Option (4) and (5) would mean from a Council perspective, the matter would not be brought back before the Council unless officers prepared a subsequent report.

It is recommended that the most appropriate course of action for now is in accordance with the actual wording in the Regulations which is that suggested at option (3) above, to firstly delete the content of the advertised July 2011 draft LPS and then insert an appropriately modified Planning Vision document worded to be the LPS. The WAPC will be advised the LPS has been modified 'to give effect to the submissions and advice' in accordance with Regulation 12B(3)(b). With this decision the Council's Planning Vision will remain as a TPS Policy until such a time as the Council wishes to modify or rescind it at some stage in the future in accordance with the separate procedures set in TPS3.

A second alternative course of action is that suggested at option (1) above which is to advise the DOP/WAPC the Council does not wish to proceed with the July 2011 draft LPS. This will then put the DOP/WAPC in a position where it will need to respond. It may respond stating that this decision to not proceed is not provided for in the Regulations.

A copy of the Summary of Submissions will be provided to the DOP/WAPC.

The Council's earlier concerns about the DOP/WAPC modifications have been reinforced by the community submissions and even some government agencies. These submissions effectively reinvigorate the Council's resolve to utilise its Planning Vision as the proper long term planning document for the Shire.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr A Budrikis:

That:

- 1. Due to the marked lack of community support and the strong opposition received, the advertised July 2011 draft Local Planning Strategy be modified by deleting pages 1 to 28 and Appendixes 1 to 6 and insert the Planning Vision document with the modifications detailed in the attached Schedule of Modifications.**
- 2. The Western Australian Planning Commission be advised the Council has adopted the Local Planning Strategy with modifications it thinks fit to give effect to the submissions and advice received during the public advertising period in accordance with Regulation 12B(3)(b).**
- 3. A copy of the Local Planning Strategy be submitted for endorsement of the Commission in accordance with Regulation 12B(3)(c).**
- 4. The Chief Executive Officer and the Manager Development Services be authorised to seek approval to attend the meeting of the Western Australian Planning Commission, Statutory Planning Committee when the Local Planning Strategy is discussed to explain the Council's position and provide the Committee members with copies of the document.**
- 5. The Chief Executive Officer be authorised to advise the Local Member of Parliament of the Council's position and request that he makes a representation to the Minister for Planning on this matter.**

CARRIED (6/1)

NO. 294/11

3:12pm Cr B Bell and Cr C Pavlovich returned to the meeting.

10.2 WORKS AND SERVICES REPORTS

Nil

10.3 COMMUNITY SERVICES REPORTS

Nil

10.4 CORPORATE SERVICES REPORTS

10.4.1 GENERAL MEETING OF ELECTORS – 2010/2011 ANNUAL REPORT

File No:	N20096
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	8 November 2011

PURPOSE

The purpose of this report is to set a date for the General Meeting of Electors to receive the Shire of Plantagenet's 2010/2011 Annual Report.

BACKGROUND

The annual financial audit for 2010/2011 was conducted by representatives of the Council's auditors, Lincolns Accountants in October 2011.

STATUTORY ENVIRONMENT

Local Government Act 1995

Sections 5.27 – 5.33 govern the holding of electors' meetings.

Section 5.27 (1) states

'(2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.'

Section 5.29 (1) further states

'(1) The CEO is to convene an electors' meeting by giving-
(a) at least 14 days' local public notice; and
(b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.'

POLICY IMPLICATIONS

There are no policy implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

The receipt of the auditor's report is not expected until mid November 2011. It is hoped to present the auditor's report to the meeting of the Council to be held on 29 November 2011. Assuming this and a subsequent advertisement in the Albany Advertiser on 1 December 2011, the earliest date for the AGM would be 20 December 2011. Annual General Meetings are traditionally held on Tuesdays.

Ideally, the General Meeting of Electors should be held in this calendar year. Holding off setting a date for the General Meeting of Electors until receipt of the auditor's report may jeopardise this.

A date and time for the General Meeting of Electors of Tuesday 20 December 2011 at 6.30pm has been recommended.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr S Etherington:

That subject to the timely receipt of the Shire's audit report, a General Meeting of Electors be held at 6.30pm on 20 December 2011 to receive the 2010/2011 Annual Report.

CARRIED (9/0)

NO. 295/11

10.5 EXECUTIVE SERVICES REPORTS

10.5.1 COUNCIL MEETING - DECEMBER 2011 - PROPOSED CHANGE OF DATE

File No: N20174
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Linda Sounness
Executive Secretary
Proposed Meeting Date: 8 November 2011

PURPOSE

The purpose of this report is to consider a change to the date for the Council Meeting scheduled to be held on Tuesday 20 December 2011 to Tuesday 13 December 2011.

BACKGROUND

At its meeting held on 9 November 2010 the Council resolved:

'That:

1. *Ordinary Meetings of the Council for 2011 be held as follows*

*8 February
1 and 22 March
12 April
3 and 24 May
14 June
5 and 26 July
16 August
6 and 27 September
18 October
8 and 29 November
20 December
...'*

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 5.3 provides that a Council is to hold ordinary meetings and may hold special meetings.

Section 5.5 requires the CEO to convene ordinary meetings by giving each Council member at least 72 hours notice of a date, time and place of a meeting and an agenda for the meeting.

Local Government (Administration) Regulations 1996

Regulation 12 requires that ordinary council meetings to be held in the next 12 months shall be advertised.

Further, a local government is to give local public notice of any change to the date, time or place of the meeting.

EXTERNAL CONSULTATION

Although there is no need for public consultation regarding this matter, statutory advertising requirements apply.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

Policy No CE/CS/5 Workshops – Attendance by Members of the Public and Policy No CE/CS/6 - Briefing Sessions for Councillors apply.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

The current three weekly cycle of Council meetings has resulted in the 20 December 2011 meeting being held three days prior to the office closure which takes effect at the close of business on Friday 23 December 2011 until Tuesday 3 January 2012.

It is anticipated that difficulties may arise with a reduced time to produce the Minutes and respond to correspondence within statutory and Customer Service Charter obligations.

It is proposed to bring forward the December 2011 Council meeting by one week which will enable timely attention to the business from that meeting.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr A Budrikis, seconded Cr M Skinner:

That:

- 1. The Meeting of the Council scheduled for 20 December 2011 be brought forward to 13 December 2011.**
- 2. The changed meeting date be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.**

LOST (4/5)

10.5.2 COUNCIL MEETINGS – SCHEDULE 2012

File No: N19431
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Linda Sounness
Chief Executive Officer
Proposed Meeting Date: 8 November 2011

PURPOSE

The purpose of this report is to consider the schedule of ordinary council meeting dates, times and venues for January to December 2012.

BACKGROUND

At its meeting held on 9 November 2010 the Council resolved:

‘That:

1. *Ordinary Meetings of the Council for 2011 be held as follows*

8 February

1 and 22 March

12 April

3 and 24 May

14 June

5 and 26 July

16 August

6 and 27 September

18 October

8 and 29 November

20 December

2. *All Ordinary Meetings of the Council shall commence at 2:45pm apart from the Council meetings held on 22 March 2011 and 24 May 2011 where meetings will commence at 5.00pm.*
3. *All Council meetings be held in the Council Chambers, Lowood Road, Mount Barker; and*
4. *All meeting dates and times be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.*

STATUTORY ENVIRONMENTLocal Government Act 1995

Section 5.3 provides that a Council is to hold ordinary meetings and may hold special meetings.

Section 5.5 requires the CEO to convene ordinary meetings by giving each Council member at least 72 hours notice of a date, time and place of a meeting and an agenda for the meeting.

Local Government (Administration) Regulations 1996

Regulation 12 requires that ordinary council meetings to be held in the next 12 months shall be advertised.

Further, a local government is to give local public notice of any change to the date, time or place of the meeting.

EXTERNAL CONSULTATION

Although there is no need for public consultation regarding this matter, as mentioned above statutory advertising protocols apply.

FINANCIAL IMPLICATIONS

There will possibly be some impact on catering costs depending on the timing and frequency of meetings.

POLICY IMPLICATIONS

Policy No CE/CS/5 Workshops – Attendance by Members of the Public and Policy No CE/CS/6 - Briefing Sessions for Councillors apply.

STRATEGIC IMPLICATIONS

The Council's Strategic Plan at Key Result Area 1 – Corporate Services notes that an aim of the Council is that '...the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisation to be undertaken.'

OFFICER COMMENT

The trial of two Council meetings commencing at 5.00pm has concluded.

The Council held a workshop on the frequency of Council meetings on 16 August 2011. At the workshop various options were discussed by Councillors including changing Council meetings to a monthly cycle of every fourth Tuesday combined with a 'briefing' session on every second Tuesday. The outcome of the workshop was that the three weekly cycle remained the most suitable option with Council meetings every third Tuesday and workshops also being held on the same day.

It is recommended that the December meeting be held one week earlier on 11 December 2012 given the potential office closure from Friday 21 December 2012, to enable timely attention to the business from that meeting.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr S Etherington, seconded Cr B Bell:

That:

1. The ordinary meetings of the Council for 2012 be held on a Tuesday at three weekly intervals as follows:
 - a) 17 January 2012;
 - b) 7 and 28 February 2012;
 - c) 20 March 2012;
 - d) 10 April 2012;
 - e) 1 and 22 May 2012;
 - f) 12 June 2012;
 - g) 3 and 24 July 2012;
 - h) 14 August 2012;
 - i) 4 and 25 September 2012;
 - j) 16 October 2012; and
 - k) 6 and 27 November 2012.
2. The ordinary meeting for December be held on Tuesday 11 December 2012;
3. All ordinary meetings of the Council shall commence at 2.45pm and be held in the Council Chambers, Lowood Road Mount Barker;
4. All meeting dates and times be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.

CARRIED (9/0)

NO. 296/11

10.5.3 SOUNNESS PARK ENCROACHMENT ONTO TRUST LAND

A Closely Associated Person (Section 5.62 LGA) Interest was disclosed by Cr C Pavlovich. Nature and extent of interest – Represent Football Club in the proposed Sounness Park Development.

3:20pm Cr C Pavlovich withdrew from the meeting.

File No: N19966
Attachments: [Advertisement](#)
[Variation of Scheme 1](#)
[Proposed Boundary Adjustment - Plan](#)
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 8 November 2011

PURPOSE

The purpose of this report is to advise the Council of recent developments relating to the encroachment of the former Recreation Centre (now Library and Community Resource Centre) situated on Lot 53 Lowood Road and which encroaches onto Sounness Park being Lot 149 on deposited plan 63264.

This report will also seek the endorsement of the Council for a Scheme to permanently rectify this long standing issue through the subdivision process.

BACKGROUND

By letter dated 19 May 1950, Mr TG Sounness wrote to the Chairman of the Plantagenet Road Board advising of his desire to '*...assist in the provision of a suitable sports ground in Mount Barker and as a practical means to this end ... transfer that eastern portion of Location 148 to the Board to be used as a public sports ground.*'

The 'eastern portion of Location 148' is identified as Lot 149.

Unfortunately Mr Sounness died before the land could be conveyed to the Road Board and it was necessary to then deal with Mr Sounness' heirs to ensure that the gift was appropriately recorded.

An indenture was drawn up dated 6 September 1954 between the Plantagenet Road Board and members of the Sounness family. That indenture records the conveyance in the form of a Trust of the land known as 'Sounness Park' to the Plantagenet Road Board for the sum of one shilling.

The indenture provides that the land will always be used as a sporting ground and although the Council (as Trustees) could dispose of the land, it would need to include provisions of the indenture in any contract of sale.

An ongoing problem has resulted from the construction of the then Recreation Centre across the boundary of the Trust land and the contiguous Lot 53. Although the provision of a recreation centre on the Trust land fitted with the Trust requirements, when the use became that of a Library, the terms of the Trust were no longer being met. When this anomaly was discovered, processes were commenced to seek an excision of the land from the Trust land to resolve the breach. This matter has taken many years to solve however it would appear that the matter is potentially nearing completion.

The Shire President and the Chief Executive Officer met with, in the company of our legal advisors in Perth, a representative of the State Solicitors Office to discuss a Scheme of Arrangement whereby the land now used as tennis courts and owned by the Council (Lot 52) would be transferred into the Trust so that the encroaching land could be excised from the Trust. It should be noted that Lot 52 also encroaches onto Trust land and this arrangement would also rectify this anomaly.

The draft scheme is attached.

STATUTORY ENVIRONMENT

Charitable Trusts Act (1962)

While encroaching, the Community Resource Centre is breaching Trust conditions. This must be rectified.

EXTERNAL CONSULTATION

No public consultation has occurred.

FINANCIAL IMPLICATIONS

Surveying and subdivision costs will likely be in the order of \$10,000.00.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Council's Strategic Plan at Key Performance Area 2 (Infrastructure) notes an aim of the Council is to 'manage public open space and natural resources to equitably meet the community's social and economic need in an environmentally responsible manner.'

OFFICER COMMENT

It is recommended that the Scheme of Arrangement be endorsed by the Council. Although the Council is increasing the amount of land coming within the jurisdiction of the Trust, it will also be removing a breach of the same Trust which occurred, effectively, when the use of the recreation centre was changed to that of a library. The continuing use as a community resource centre is also deemed to be outside of the Trust.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr G Messmer:

That the Scheme of Arrangement which proposes that Lot 52 Lowood Road (Tennis Courts) be transferred into the Sounness Park Trust (Lot 149) so that a portion of Lot 53 (Community Resource Centre and Library) can be excised from Lot 149, be endorsed.

CARRIED (8/0)

NO. 297/11

3:22pm Cr C Pavlovich returned to the meeting.

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

13 CONFIDENTIAL

Nil

14 CLOSURE OF MEETING

3:23pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ **DATE:** ____ / ____ / ____